



COMMONWEALTH OF KENTUCKY

ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY

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Court of Appeals

JOSEPH H. ECKERT
Circuit Court

B. M. WESTBERRY, CHAIRMAN
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THOMAS J. KNOPF
District Court

UHEL O. BARRICKMAN
Attorney

JUDICIAL ETHICS OPINION JE-21

Informal

QUESTION: Is there any impropriety in a judge's secretary seeking election to public office while serving as an employee of the Court of Justice?

ANSWER: No, but the judge and secretary must be diligent in avoiding impropriety and the appearance of impropriety, and the judge must not publicly endorse the secretary or assist her campaign in any way.

REFERENCES: SCR 4.300, Code of Judicial Conduct, Canon 2 and Canon 7A(1);
AOC Personnel Rules

OPINION: (February 1981):

Under the Administrative Procedures of the Court of Justice, Part III, Sec. 1(2), a judge's secretary is not required to resign before seeking election to public office. Because secretaries are not bound by SCR 4.300, the Code of Judicial Conduct, this Committee cannot control the actions of the secretary, or ask her to resign before seeking election. However, she should be diligent in separating her campaign activities from the courthouse in order to avoid embarrassment to the judge by whom she is employed.

At the same time, the judge must constantly be mindful of the strictures of Canon 2:

A judge should avoid impropriety and the appearance of impropriety....

(2) ...He should not lend the prestige of his office to advance the private interests of others....

He must also be careful to observe the prohibitions of Canon 7A(1), which states in part:

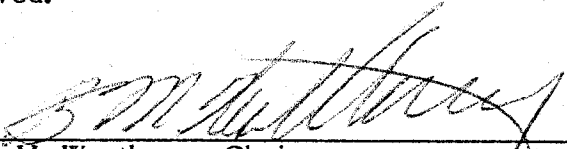
A judge ... should not:

- (b) Make speeches for a political organization or candidate or publicly endorse a candidate for public office;
- (c) Solicit funds for or pay an assessment or make a contribution to a ... candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions....

This Committee has been informed that the judge has not encouraged his secretary to seek political office, has not and will not commit his support publicly for her election, and will not be involved in her campaign in any way. The Committee has been further informed that the judge and secretary have agreed that neither will conduct any campaigning from the judge's office.

It appears that the judge is doing everything necessary to avoid running afoul of Canon 2 and Canon 7. As long as he honors his commitments as outlined above, and requires his secretary to honor her commitments, there is no impropriety in her seeking election to public office while serving as secretary to the judge.

Committeeman Uhel O. Barrickman has not taken any part in this decision, having disqualified himself because of his knowledge of the situation and acquaintance with the persons involved.




B. M. Westberry, Chairman
Ethics Committee of the Kentucky Judiciary

NOTE: The undersigned has been instructed by the Ethics Committee of the Kentucky Judiciary to add this note to Judicial Ethics Opinion JE-21, pointing out that the opinion has been rendered moot by an amendment of Administrative Procedures of the Court of Justice, Part II, Personnel, Sec. 6.18(3), effective February 3, 1981. As amended, this section reads as follows:

- (3) All employees of the Court of Justice appointed pursuant to KRS Chapter 27A or KRS 30A.300 and .310 shall terminate their employment prior to filing for election to any partisan political office or the offices of judge or

justice of the Court of Justice. Such employees may file and run for any other non-partisan office as long as campaigning does not interfere with the performance of duties.

KRS 30A.300, referred to above, deals with secretaries for circuit and district courts.

A handwritten signature in cursive script, reading "Elizabeth D. Oberst". The signature is written in dark ink and is positioned above a horizontal line.

Elizabeth D. Oberst, Executive Secretary
Ethics Committee of the Kentucky Judiciary